



06-CR-00466-BOND

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID RONALD MENDOZA,

Defendant.

} NO. CR06-466 TSZ

} PLEA AGREEMENT

The United States of America, by and through Jeffrey C. Sullivan, United States Attorney for the Western District of Washington, and Susan M. Roe and Roger S. Rogoff, Assistant United States Attorneys for said District, and the defendant, David Ronald Mendoza, and his attorneys, Jeffrey P. Robinson and Colette Tvedt, enter into the following Agreement, pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C):

1. The Charges. The defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enter a plea of guilty to Count 1 of the Superseding Indictment. Count 1 alleges a Conspiracy to Import more than 1,000 kilograms of Marijuana, in violation of Title 21, United States Code, Sections 952(a), 960(a)(1) and (b)(1)(G) and 963. By entering this plea of guilty, the defendant waives all objections to the form of the charging document. The defendant further understands that before entering his plea of guilty, he will be placed under oath. Any statement he gives under oath may be used by the United States in a prosecution for perjury or false statement.

1 2. Elements of the Offenses. The elements of the offense of Conspiracy are as
2 follows:

3 (1) That there was an agreement between two or more people to commit the acts
4 which constituted a crime, that is, to import marijuana; and

5 (2) That the defendant became a member of the conspiracy knowing of its objects
6 and intending to help accomplish at least one of its objectives.

7 The government also would have to prove beyond a reasonable doubt that the
8 conspiracy involved more than 1,000 kilograms of marijuana. The defendant waives his
9 right to require the United States to make the proof regarding the weight of the controlled
10 substance, and stipulates that this plea of guilty includes his acknowledgment that the
11 offense involved more than 1,000 kilograms of marijuana.

12 3. The Penalties. The defendant understands that the statutory penalties for
13 the offense are as follows: Imprisonment for a term up to life with a mandatory minimum
14 sentence of ten years of imprisonment, a fine of up to four million dollars, a period of
15 supervision following release from prison of at least five years, and a \$100 penalty
16 assessment

17 The defendant understands that supervised release is a period of time following
18 imprisonment during which he will be subject to certain restrictions and requirements.
19 The defendant further understands that if supervised release is imposed and he violates
20 one or more of its conditions, he could be returned to prison for all or part of the term of
21 supervised release than was originally imposed.

22 The defendant understands that a consequence of this guilty plea may include the
23 forfeiture of certain property, either as a part of the sentence imposed by the Court or as a
24 result of civil judicial or administrative process.

25 The defendant agrees that any monetary penalty the Court imposes, including the
26 special assessment, fine, costs or restitution, is due and payable immediately, and further
27 agrees to submit a completed Financial Statement of Debtor form as requested by the
28 United States Attorney's Office. He further understands that by pleading guilty to a felony

1 drug offense, he will become ineligible for certain food stamp and social security benefits
2 under 21 U.S.C. § 862a.

3 4. Rights Waived by Pleading Guilty. The defendant understands that by
4 pleading guilty, he knowingly and voluntarily waives the following rights:

5 a. The right to plead not guilty and to persist in a plea of not guilty;
6 b. The right to a speedy and public trial before a jury of his peers;
7 c. The right to the effective assistance of counsel at trial and the right to have
8 the Court appoint an attorney for him if he could not afford one ;

9 d. The right to be presumed innocent until guilt has been established beyond a
10 reasonable doubt at trial;

11 e. The right to confront and cross-examine witnesses against him at trial;

12 f. The right to compel or subpoena witnesses to appear on his behalf at trial;

13 g. The right to testify or to remain silent at trial and such silence could not be
14 used against him at trial; and

15 h. The right to appeal a finding of guilt or any pretrial rulings.

16 5. United States Sentencing Guidelines. The defendant understands and
17 acknowledges that, at sentencing, the Court must consider the sentencing range calculated
18 under the United States Sentencing Guidelines, together with the other factors set forth in
19 Title 18, United States Code, Section 3553(a), including: (1) the nature and circumstances
20 and of the offense; (2) the history and characteristics of the defendant; (3) the need for the
21 sentence to reflect the seriousness of the offense, to promote respect for the law, and to
22 provide just punishment for the offense; (4) the need for the sentence to afford adequate
23 deterrence to criminal conduct; (5) the need for the sentence to protect the public from
24 further crimes of the defendant; (6) the need to provide the defendant with educational
25 and vocational training, medical care, or other correctional treatment in the most effective
26 manner; (7) the kinds of sentences available; (8) the need to provide restitution to victims;
27 and (9) the need to avoid unwarranted sentence disparity among defendants involved in
28

1 similar conduct who have similar records. Accordingly, the defendant understands and
2 acknowledges that:

3 a. The United States Sentencing Guidelines, promulgated by the
4 United States Sentencing Commission, are applicable to this case;

5 b. The Court will determine the defendant's applicable Sentencing
6 Guidelines range at the time of sentencing; and, will consider the factors in Title 18,
7 United States Code, Section 3553(a)

8 c. Except as provided in paragraph 6 below, the defendant may not
9 withdraw a guilty plea solely because of the sentence imposed by the Court.

10 6. Sentencing Agreement. Pursuant to Rule 11(c)(1)(C) of the Federal Rules
11 of Criminal Procedure and as a result of a Judicially approved Settlement Conference, the
12 parties acknowledge and agree that the appropriate sentence of imprisonment to be
13 imposed by the court at the time of sentencing is a term of 168 months (14 years) and the
14 defendant's forfeiture of four real properties, as set forth in paragraph 13 below. If the
15 sentencing court rejects any portion of the agreement of the parties set forth in this
16 paragraph, both the defendant and the United States reserve the right to withdraw from
17 this agreement pursuant to Rule 11(c)(1)(c) of the Federal Rules of Criminal Procedure
18 and to proceed to trial. No other agreement has been made with regard to the imposition
19 of the sentence in this matter, and the parties understand that the court retains full
20 discretion with regard to the imposition of a term of supervised release, the conditions of
21 supervised release and restitution as may be applicable.

22 7. Ultimate Sentence. The defendant acknowledges that no one has promised
23 or guaranteed what sentence the Court will impose, except as set forth in paragraph 6
24 above.

25 8. Statement of Facts. The parties agree that the government will prove the
26 following facts at trial. The defendant admits that he is guilty of the charged offense.
27
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1 Over the five years leading up to and through August, 2006, Seattle resident David
2 Ronald Mendoza was a large-scale transporter of Canadian marijuana both into the
3 United States from Canada and throughout the United States. Some of his marijuana
4 smuggling and transporting activities include:

5 **2003:**

6 1. In April, 2003, ICE agents intercepted a 400 pound shipment of marijuana, nine
7 hockey bags in "coffin style" compartments lined with plastic and topped with coffee
8 grounds, hidden within a commercial load of lumber coming through the international
9 border at Blaine, Washington. Mendoza was the intended recipient of this load.

10 **2005:** In spring and summer of 2005, Mendoza received several loads of
11 marijuana flown across the border by helicopter into Washington State. Canadians Kip
12 Whelpley and Jonathan Senecal came into Washington, living in Twisp and Seattle, in
13 order to receive Mendoza's loads.

14 2. On June 9, 2005, ICE agents seized a 485 pound marijuana load, flown into
15 Washington State for Mendoza and packaged in 11 hockey bags, from Whelpley.

16 3. On July 26, 2005, Jonathan Senecal received on behalf of Mendoza another
17 marijuana load of unknown weight packaged in nine hockey bags.

18 4. On August 4, 2005, ICE agents seized a 500 pound marijuana load packaged in
19 nine hockey bags which Mendoza, Danny Zylstra and Senecal had hidden in a woody
20 ravine. Law enforcement contacted the men, confirmed their identities, and watched as
21 the men tried to find the seized marijuana.

22 5. On December 15, 2005, three men, Danny Zylstra, John Sanders and William
23 Renner, working for Mendoza picked up a 500 pound marijuana load at Sanders' Seattle
24 residence. Together, the men moved the load to a storage unit in Everett. Later that
25 evening Zylstra, driving Mendoza's truck, attempted to deliver 120 pounds of the
26 marijuana in a South Seattle parking lot.

1 **2006:**

2 6. On February 7, 2006, ICE seized a 265 pound marijuana load, packaged in five
3 hockey bags, from Robert Lease and Robert Beazley. This load was flown across the
4 border by a helicopter piloted by Timothy Smith. This led to the arrest of Beazley, Lease,
5 Chen, and Lin. After Smith dropped the marijuana to Beazley, Smith flew to another
6 location in the United States where he picked up Mendoza. Smith then flew to an airport
7 in British Columbia and proceeded to drive with Mendoza to the Pan Pacific Hotel in
8 Vancouver, British Columbia.

9 7. On August 17, 2006, ICE seized a 415 pound marijuana load from Donald
10 Cramer. That summer, he and Al Howard had received marijuana loads from helicopters
11 landing in Idaho and Montana. The marijuana was transported east to Spokane and
12 Seattle for distribution to others.

13 **Coconspirators Admissions**

14 Whelpley and Senecal admitted that they worked for Mendoza and that they picked
15 up several other similar-sized marijuana loads for him during the summer of 2005 which
16 they brought to the Seattle area for delivery to others.

17 Lease and Beazley admitted they worked for Mendoza and that they received prior
18 marijuana loads for Mendoza which they delivered to others.

19 Pilot Tim Smith admitted he worked for Mendoza and had made at least one prior
20 marijuana smuggling trip for him.

21 Cramer admitted that he had received and transported between five and ten
22 similar-sized marijuana loads for Mendoza.

23 Stacy Hinckley lived with Mendoza for three years, ending in mid-2006. Hinckley
24 admitted she transported approximately 25 loads of marijuana to locations within the
25 United States, including California, Oregon, Illinois, Utah and Colorado, for Mendoza.
26 She estimated her loads weighed between 30 and 100 pounds.

27 Mendoza was responsible for importing and transporting thousands of pounds of
28 marijuana within this District and elsewhere.

1 9. Waiver of Appeal As part of this Plea Agreement and on the condition that
2 the Court imposes a custodial sentence consistent with paragraph 6 of the Plea
3 Agreement, the defendant waives to the full extent of the law: (1) any right conferred by
4 Title 18, United States Code, Section 3742 to appeal the sentence, including any
5 restitution order imposed; and (2) any right to bring a collateral attack against the
6 conviction and sentence, including any restitution order imposed, except as it may relate
7 to the effectiveness of legal representation

8 This waiver does not preclude the defendant from bringing an appropriate motion
9 pursuant to 28 U.S.C. 2241, to address the conditions of his confinement or the decisions
10 of the Bureau of Prisons regarding the execution of his sentence.

11 If the defendant breaches this Plea Agreement at any time by appealing or
12 collaterally attacking (except as to effectiveness of legal representation) the conviction or
13 sentence in any way, the United States may prosecute him for any counts, including those
14 with additional mandatory minimum sentences, that were dismissed or not charged
15 pursuant to this Plea Agreement.

16 10. Non-Prosecution of Additional Offenses. As part of this Plea Agreement, the
17 United States Attorney's Office for the Western District of Washington agrees not to
18 prosecute (1) the defendant or (2) his wife, Elizabeth Ahnert Mendoza for any additional
19 offenses known to it as of the time of this Agreement that are based upon evidence in its
20 possession at this time, or that arise out of the conduct giving rise to this investigation. In
21 this regard, the defendant recognizes the United States has agreed not to prosecute all of
22 the criminal charges the evidence establishes were committed by the defendant or by his
23 wife, Elizabeth Ahnert Mendoza, solely because of the promises made by the defendant in
24 this Agreement. The defendant agrees that for purposes of preparing the Presentence
25 Report, the United States Attorney's Office will provide the United States Probation
26 Office with evidence of all conduct committed by the defendant.

27 11. Acceptance of Responsibility. The United States acknowledges that if the
28 defendant qualifies for an acceptance of responsibility adjustment pursuant to USSG

1 § 3E1.1(a), and if the offense level is sixteen or greater, the defendant's total offense level
 2 should be decreased by three levels pursuant to USSG §§ 3E1.1(a) and (b), because the
 3 defendant has assisted the United States by timely notifying the authorities of his
 4 intention to plead guilty, thereby permitting the United States to avoid preparing for trial
 5 and permitting the Court to allocate its resources efficiently. This three level reduction
 6 has been fully taken into account and considered in determining the agreed recommended
 7 sentence of 168 months.

8 12. Breach, Waiver, and Post-Plea Conduct. The defendant agrees that if he
 9 breaches this Plea Agreement, the United States may withdraw from this Plea Agreement
 10 and the defendant and his wife, Elizabeth Ahnert Mendoza, may be prosecuted for all
 11 offenses for which the United States has evidence. The defendant agrees not to oppose
 12 any steps taken by the United States to nullify this Plea Agreement, including the filing of
 13 a motion to withdraw from the Plea Agreement. The defendant also agrees that if he is in
 14 breach of this Plea Agreement, he has waived any objection to the re-institution of any
 15 charges in the Indictment that were previously dismissed or any additional charges that
 16 had not been prosecuted.

17 The defendant further understands that if, after the date of this Agreement, the
 18 defendant should engage in illegal conduct, or conduct that is in violation of his
 19 conditions of release or confinement (examples of which include, but are not limited to:
 20 obstruction of justice, failure to appear for a court proceeding, criminal conduct while
 21 pending sentencing, and false statements to law enforcement agents, the Pretrial Services
 22 Officer, Probation Officer or Court), the United States is free under this Agreement to file
 23 additional charges against the defendant or to seek a sentence that takes such conduct
 24 into consideration. Such a sentence could include a sentencing enhancement under the
 25 United States Sentencing Guidelines or an upward departure from the applicable
 26 sentencing guidelines range.

27 13. Forfeiture. The defendant agrees to forfeit to the United States
 28 immediately all of his right, title and interest, and all right, title, and interest of any

1 corporation or limited liability company of which he is the sole shareholder, owner or
2 member, in any and all property, real or personal, that was used, or intended to be used, in
3 any manner or part, to commit or to facilitate the commission of the charged offense, and
4 any property constituting, or derived from, any proceeds the defendant obtained, directly
5 or indirectly, as the result of such offenses, that are subject to forfeiture pursuant to the
6 provisions of Title 18 and Title 21 of the United States Code. The defendant agrees that
7 the four Real Properties, and/or the net proceeds of their sales, listed below constitute
8 forfeitable property under these statutory provisions.

9 The defendant agrees to assist fully the United States in the forfeiture of the assets
10 and to take whatever steps are necessary to pass clear title to the United States, including
11 but not limited to: ending all litigation, including withdrawing all appeals and motions, in
12 the civil forfeiture actions on these properties. surrendering title and executing any
13 documents necessary to effectuate such forfeiture; assisting in bringing any assets located
14 outside the United States within the jurisdiction of the United States; and taking whatever
15 steps are necessary to ensure that assets subject to forfeiture are not sold, disbursed,
16 wasted, hidden or otherwise made unavailable for forfeiture. The defendant agrees not to
17 file or pursue a claim to any of the below listed property in any civil forfeiture
18 proceeding, administrative or judicial, which has been, or may be, initiated, and further
19 agrees to the forfeiture, as a part of his sentence herein, of any of the below listed
20 properties which have not already been forfeited civilly.

21 REAL PROPERTY commonly known as 2526 155th Place SE, Bellevue,
22 Washington, King County Parcel #675130-0450 or the net proceeds of the sale of the
23 property;

24 REAL PROPERTY commonly known as 31726 North Spotted Road, Deer Park,
25 Washington, Spokane County Parcel #28092-9065 or the net proceeds of the sale of the
26 property;

27 REAL PROPERTY commonly known as 849 NW Wall Street, Bend, Oregon,
28 Deschutes County Parcel #1-061 17 12 32 BD 06200 103806 or the net proceeds of the

1 sale of the property;
2 REAL PROPERTY commonly known as 1135 Tacoma Avenue South, Tacoma,
3 Washington, Pierce County Parcel #201111-010-0, together with its Buildings,
4 Improvements, Appurtenances, Fixtures, Attachments, and Easements, more particularly
5 described as: Lot 17, Block 1111, Map of New Tacoma, W.t. According to the Plat Filed
6 for Record February 3, 1875 in the Office of the Pierce County Auditor, in Pierce County
7 Washington or the net proceeds of the sale of the property; .

8 The United States reserves its right to proceed against any remaining assets not
9 identified in this Plea Agreement, including any property in which the defendant has any
10 interest or control, if said assets, real or personal, tangible or intangible, constitute or are
11 traceable to proceeds, or facilitated violations, of Title 21, United States Code, Sections
12 841, 952(a), 960(a)(1) and (b)(1)(G), 963 and Title 18, United States Code, Sections 1956
13 and 1957.

14 14. Voluntariness of Plea. The defendant agrees that he has entered into this
15 Plea Agreement freely and voluntarily, and that no threats or promises, other than the
16 promises contained in this Plea Agreement, were made to induce the defendant to enter
17 this plea of guilty.

18 15. Statute of Limitations. In the event this Agreement is not accepted by the
19 Court for any reason, or the defendant has breached any of the terms of this Plea
20 Agreement, the statute of limitations shall be deemed to have been tolled from the date of
21 the Plea Agreement to: (1) 60 days following the date of non-acceptance of the Plea
22 Agreement by the Court; or (2) 60 days following the date on which a breach of the Plea
23 Agreement by the defendant is discovered by the United States Attorney's Office.
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1 16. Completeness of Agreement. The United States and the defendant
2 acknowledge that these terms constitute the entire Plea Agreement between the parties.
3 This Agreement binds only the United States Attorney's Office for the Western District of
4 Washington. It does not bind any other United States Attorney's Office or any other
5 office or agency of the United States, or any state or local prosecutor.

6 Dated this 19th day of June, 2009.

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9
10 DAVID RONALD MENDOZA
11 Defendant

12 JEFFREY P. ROBINSON
13 Attorney for the defendant Mendoza

14 COLETTIE TVEDT
15 Attorney for defendant Mendoza

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